

1 THE HONORABLE JAMES L. ROBART
2
3
4
5
6
7
8

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

9 HDT BIO CORP.,

10 Plaintiff,

11 v.

12 EMCURE PHARMACEUTICALS, LTD.,

13 Defendant.

No. 2:22-cv-00334-JLR

**EMCURE'S MOTION FOR
ATTORNEYS' FEES UNDER
RCW 4.28.185(5)**

NOTE ON MOTION CALENDAR:
January 12, 2024

TABLE OF CONTENTS

		Page
1	INTRODUCTION	1
2	BACKGROUND	2
3	A. HDT haled India-based Emcure into this Court while simultaneously pursuing HDT's contracted-for remedy against Gennova in a London arbitration.....	2
4	B. This Court granted Emcure's motion to dismiss for lack of personal jurisdiction.....	4
5	I. EMCURE IS ENTITLED TO REASONABLE ATTORNEYS' FEES UNDER WASHINGTON'S LONG-ARM STATUTE.....	5
6	A. Legal Standard	5
7	B. Emcure qualifies for attorneys' fees under Washington's long-arm statute.....	6
8	C. Emcure's requested fees are reasonable.	7
9	1. Perkins Coie LLP	8
10	a. Reasonable work.....	8
11	b. Reasonable rates.....	10
12	2. Blank Rome LLP	11
13	a. Reasonable work.....	11
14	b. Reasonable rates.....	11
15	3. Corr Cronin LLP	12
16	4. Berkeley Research Group, LLC.....	13
17	5. Parinam Law	13
18	CONCLUSION.....	13
19		
20		
21		
22		
23		
24		
25		
26		

TABLE OF AUTHORITIES

Page(s)

1	CASES	
2	<i>Absher Const. Co. v. Kent Sch. Dist. No. 415</i> , 79 Wash. App. 841 (1995).....	9
3		
4	<i>Bowers v. Transamerica Title Ins. Co.</i> , 100 Wash. 2d 581, 675 P.2d 193 (1983).....	11
5		
6	<i>Cabell v. Zorro Prods., Inc.</i> , No. 13-CV-00449RSM, 2015 WL 11233121 (W.D. Wash. Mar. 23, 2015).....	6, 7, 8
7		
8	<i>Chalmers v. City of L.A.</i> , 796 F.2d 1205 (9th Cir. 1986), <i>amended on other grounds</i> , 808 F.2d 1373 (1987).....	9
9		
10	<i>Confeccoes Texteis de Vouzela, Lda. v. Space Tech Sys. Inc.</i> , 968 F.2d 1220 (9th Cir. 1992)	1
11		
12	<i>Eat Right Foods, Ltd v. Whole Foods Mkt. Servs., Inc.</i> , No. C13-2174RSM, 2015 WL 11233198 (W.D. Wash. Feb. 18, 2015).....	<i>passim</i>
13		
14	<i>Hewitt v. Hewitt</i> , 78 Wn. App. 447 (Wash. Ct. App. 1995)	6, 10
15		
16	<i>McGrath v. County of Nev.</i> , 67 F.3d 248 (9th Cir. 1995)	8
17		
18	<i>Moi v. Chihuly Studio</i> , No. 19-35852 (9th Cir. Mar. 1, 2021).....	12
19		
20	<i>Philips Oral Healthcare, Inc. v. Fed. Ins. Co.</i> , 2005 WL 3020014 (W.D. Wash. Nov. 10, 2005).....	9, 11, 12
21		
22	<i>Richmond v. Pryor</i> , No. C06-1483RSL, 2007 WL 777475 (W.D. Wash, March 9, 2007)	7
23		
24	<i>Scott Fetzer Co. v. Weeks</i> , 22 Wash. 2d 141, 859 P.2d 1210 (1993).....	6, 7, 8, 9
25		
26	<i>Sportsfragrance, Inc. v. The Perfumer's Workshop Int'l, Ltd.</i> , No C09-177Z, 2009 U.S. Dist. LEXIS 60597 (W.D. Wash. June 30, 2009)	10
22	<i>Stalwart Capital, Inc. v. iCap Pac. Nw. Income & Opportunity Fund, et al.</i> , No. C14-01128 TSZ, 2019 WL 852064 (9th Cir. 2019).	12
23		
24	<i>Tr. of Summers Fam. Tr. TA Neak Prod. Buff WA Pty Ltd. v. Nat'l Distribution Warehouse Inc.</i> , No. 2:21-CV-00797-DGE, 2022 WL 1164579 (W.D. Wash. Mar. 24, 2022)	6, 7, 8
25		
26	<i>Wagafe v. Trump</i> , No. C17-0094RAJ, 2019 WL 954980 (W.D. Wash. Feb. 27, 2019).....	12

**TABLE OF AUTHORITIES
(continued)**

		Page(s)
1	STATUTES	
2	Fed. R. Civ. P. 4(k)(2).....	3
3	Wash. Rev. Code Ann. § 4.28.185(5).....	5, 6
4	OTHER AUTHORITIES	
5	Blake Brittain, <i>Lawsuit says India's Emcure stole COVID-19 vaccine secrets for IPO</i> , Reuters (Mar. 22, 2022, 2:51 PM)	2
6	London Ct. of Int'l Arb. R., Art. 14.....	7
7	London Ct. of Int'l Arb. R., Art. 22	7
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		
26		

INTRODUCTION

Despite having a contracted-for forum to litigate its dispute with Emcure’s subsidiary, Gennova, HDT initiated this lawsuit in the US against India-based Emcure, Gennova’s parent corporation. After 21 months of litigation about whether the Court has personal jurisdiction over Emcure, Emcure prevailed, and the Court dismissed Emcure for lack of personal jurisdiction. Emcure seeks recovery of its attorneys’ fees from HDT pursuant to Revised Code of Washington § 4.28.185(5), which allows a foreign defendant dismissed for lack of personal jurisdiction to recover reasonable attorneys’ fees to compensate it for the added expense caused by plaintiff’s assertions of long-arm jurisdiction. “[U]nder Washington law, regardless of whether the action was filed in good faith, the burdens and inconveniences placed on a defendant over whom long-arm jurisdiction was improperly asserted are sufficient to justify an award of attorney’s fees.”

Confeccoes Texteis de Vouzela, Lda. v. Space Tech Sys. Inc., 968 F.2d 1220 (9th Cir. 1992).

Emcure incurred substantial costs defending this case when it lacked the requisite minimum contacts with this forum and never should have faced this lawsuit. Emcure respectfully requests reasonable attorneys' fees for its two motions to dismiss, the processing of over 23.3 million files, the production of nearly 40,000 documents during jurisdictional discovery, the review of 27,642 pages produced by HDT and third parties, the preparation for and involvement in 11 depositions, as well as the preparation of interrogatory responses, motions to compel, and motions to seal. Meanwhile, HDT had contracted for a fully adequate remedy for its trade-secret claims: arbitration against Gennova in London. HDT nevertheless wrongfully haled Emcure into this Court for strategic reasons, as it conveniently received discovery from Emcure and was able to file publicly available one-sided complaints against Emcure, all things it could not do in the London arbitration.

Emcure's total requested fees of \$3,246,758.81 are reasonable given the volume and complexity of work during the 21 months of this case.

1 BACKGROUND

2 **A. HDT haled India-based Emcure into this Court while simultaneously pursuing
3 HDT's contracted-for remedy against Gennova in a London arbitration.**

4 The Court is familiar with this dispute, and Emcure only summarizes certain pertinent
5 facts here. In August 2021, Seattle-based HDT entered into a license agreement with Emcure
6 subsidiary Gennova, under which Gennova could use HDT's LION technology to formulate,
7 market, and sell a COVID vaccine in India in exchange for milestone and royalty payments (in
8 the event of sales). The agreement, governed by English law, included a mandatory dispute
9 resolution clause that provided for jurisdiction in the London Court of International Arbitration.

10 In March 2022, HDT initiated arbitration against Gennova in London, alleging that
11 Gennova breached the license agreement, misappropriated HDT's trade secrets, and defrauded
12 HDT.

13 That same month, HDT also sued Emcure in this Court for over \$950 million, alleging
14 federal and state trade-secret misappropriation. As a result, HDT was able to tell its one-sided
15 story against Emcure and Gennova in a forum that allowed its complaint to be public and to
16 leverage discovery against Emcure. *See, e.g., Blake Brittain, Lawsuit says India's Emcure stole
17 COVID-19 vaccine secrets for IPO, Reuters (Mar. 22, 2022, 2:51 PM),
18 https://www.reuters.com/legal/government/lawsuit-says-indias-emcure-stole-covid-19-vaccine-
secrets-ipo-2022-03-22/.*

19 Emcure engaged Blank Rome LLP to manage the litigation and Corr Cronin LLP as local
20 counsel. Emcure moved to dismiss the case for lack of personal jurisdiction or forum non
21 conveniens or to stay it pending arbitration. Dkt. 23. On July 29, 2022, the Court denied
22 Emcure's motion to dismiss without prejudice and ordered jurisdictional discovery. Discovery
23 lasted until July 28, 2023—almost a year. Dkts. 51, 72, 104, 126. Emcure responded to two sets
24 of interrogatories, which totaled 12 pages, and five sets of requests for production. Declaration of
25 James Sanders ("Sanders Decl.") ¶ 5. Emcure's counsel processed over 23.3 million files and
26

1 produced nearly 40,000 documents (totaling 410,239 pages). Dkt. 178 ¶ 2; Declaration of
 2 Michael Iannucci (“Iannucci Decl.”) ¶ 16. Emcure sent 14 requests for production to HDT, and
 3 HDT produced documents totaling 27,642 pages. Sanders Decl. ¶¶ 15, 17. HDT also sent
 4 subpoenas to third parties, and Emcure counsel had to coordinate with multiple third parties.
 5 Iannucci Decl. ¶ 16. Emcure’s counsel also briefed two motions for protective order, Dkts. 63,
 6 67, which included a hearing, Dkt. 85; a motion to compel discovery from HDT, Dkt. 59; and a
 7 response to HDT’s motion to compel deposition, Dkt. 105. In addition to document discovery,
 8 HDT noticed a Rule 30(b)(6) deposition with eight topics spanning four pages, as well as
 9 individual deposition notices to six witnesses. Sanders Decl. ¶ 18. All of the witnesses were
 10 located in India, and, under Indian law, Indian counsel had to be involved in the depositions.
 11 Declaration of Hitesh Jain (“Jain Decl.”) ¶ 10.

12 In June 2023, Emcure switched lead counsel from Blank Rome to its current counsel,
 13 Perkins Coie LLP. Perkins Coie reviewed the hundreds of thousands of pages produced by all
 14 parties in discovery to prepare seven witnesses for deposition, including Emcure’s Rule 30(b)(6)
 15 representatives, and took four depositions by August, just two months after appearing.¹

16 Less than three months after Perkins Coie appeared, HDT filed an 87-page amended
 17 complaint with 205 pages of exhibits in September 2023. Dkts. 132–133. HDT alleged that this
 18 Court had jurisdiction based on Emcure’s contacts with Washington or—as relevant to HDT’s
 19 federal claim, *see Fed. R. Civ. P. 4(k)(2)*—the United States, Dkt. 132 ¶ 94. HDT also filed a
 20 motion to seal portions of the amended complaint, Dkt. 131, which Emcure analyzed and
 21 responded to, Dkt. 134.

22 On September 21, 2023, Emcure filed another motion to dismiss for lack of personal
 23 jurisdiction. Dkts. 136–40. Emcure argued once again that this Court lacked personal jurisdiction
 24 over Emcure under the Washington and federal long-arm statutes. Dkt. 136 at 16 & n.8.

25
 26 ¹ Blank Rome also reviewed these documents and prepared substantial materials for depositions before
 Perkins Coie appeared. Iannucci Decl. ¶ 18.

1 Emcure's motion distilled complicated and intricate facts, expanded upon recent Supreme Court
 2 case law, and was supported by four declarations. On October 16, 2023, HDT filed its response
 3 to Emcure's motion to dismiss, supported by a 65-page declaration from Dana Berkowitz with
 4 1,321 pages of exhibits. Dkts. 152–153. HDT argued jurisdiction based on Emcure's contacts
 5 and based on Gennova's and Gennova's CEO's contacts. In reply, Emcure had to respond to the
 6 many facts HDT introduced on response, some of which were inaccurate or irrelevant. Emcure
 7 also had to respond to the case law cited by HDT.

8 Emcure also briefed multiple motions to seal and responded to a motion to compel.

9 Emcure responded to HDT's October 16, 2023, motion to seal, among other things, portions of
 10 and certain exhibits in the 1,386-page Berkowitz Declaration. HDT's motion did not "identify
 11 any particular paragraphs or lines [HDT]" sought to keep under seal, Dkt. 196 at 5, which made
 12 responding especially difficult. Emcure, on the other hand, carefully "identif[ied] particular
 13 paragraphs or lines it" sought to keep under seal and "explained why each of these paragraphs ...
 14 contain[ed] sensitive information." Dkt. 196 at 5. Emcure's counsel had to create a spreadsheet
 15 to list each exhibit and its potential confidentiality and obtain client input on each exhibit and the
 16 spreadsheet. Perkins Coie also had to work closely with Emcure to understand what information
 17 should be sealed and to obtain client declarations in support of sealing. Emcure also filed an
 18 October 25, 2023, motion to seal portions of declarations and certain other documents designated
 19 as HDT confidential and a reply in support; a November 6, 2023, motion to seal e-mails as
 20 attorney-client privileged; and a response to HDT's November 10, 2023, motion to seal, which
 21 aimed to give Emcure the opportunity to justify keeping certain confidential materials under seal.

22 See Dkt. 196. Emcure also responded to HDT's motion to compel, Dkt. 194.

23 **B. This Court granted Emcure's motion to dismiss for lack of personal jurisdiction.**

24 On December 4, 2023, this Court granted Emcure's motion to dismiss for lack of
 25 personal jurisdiction. Dkt. 195. This Court determined that Emcure's contacts with Washington
 26 and the United States did not amount to either purposeful direction or purposeful availment at the

1 *very first step* of the personal-jurisdiction analysis. *Id.* at 10, 13. The Court did not have to
 2 analyze whether any alleged contacts were sufficiently related to HDT's claims or whether the
 3 exercise of jurisdiction over Emcure would have been reasonable. *Id.* This Court also concluded
 4 that it could not impute Gennova's contacts to Emcure. *Id.* at 27.

5 The Court also granted HDT's motion to compel, granted in part and denied in part
 6 HDT's October 16 motion to seal and Emcure's October 25 motion to seal, and denied HDT's
 7 November 10 motion to seal. Dkt. 196.

8 **I. EMCURE IS ENTITLED TO REASONABLE ATTORNEYS' FEES UNDER
 9 WASHINGTON'S LONG-ARM STATUTE**

10 **A. Legal Standard**

11 Washington courts award reasonable fees when foreign defendants win motions to
 12 dismiss for lack of personal jurisdiction, even if the case was not frivolous or brought in bad
 13 faith.² When "the defendant is personally served outside the state on causes of action enumerated
 14 in this section (the long-arm statute), and prevails in the action, there may be taxed and allowed
 15 to the defendant as part of the costs of defending the action a reasonable amount to be fixed by
 16 the court as attorneys' fees." Wash. Rev. Code Ann. § 4.28.185(5).

17 For example, the Western District of Washington awarded third-party defendants
 18 attorneys' fees after granting their motion to dismiss, even though it held that plaintiffs' lawsuit
 19 was neither frivolous nor brought to harass them. *Eat Right Foods*, 2015 WL 11233198, at *2;
 20 *see also Hewitt v. Hewitt*, 78 Wn. App. 447, 457 (Wash. Ct. App. 1995). That is because the
 21 purpose of the statute is to "compensate defendants for the added expense caused them by
 22 plaintiffs' assertions of long-arm jurisdiction." *Tr. of Summers Fam. Tr. TA Neak Prod. Buff WA*
 23 *Pty Ltd. v. Nat'l Distribution Warehouse Inc.*, No. 2:21-CV-00797-DGE, 2022 WL 1164579, at
 24 *2 (W.D. Wash. Mar. 24, 2022); *Eat Right Foods*, 2015 WL 11233198, at *2. Thus, this statute
 25 is "[u]nlike many fee shifting statutes which attempt only to punish frivolous litigation." *Scott*

26 ² Federal courts apply Section 4.28.185(5). *See, e.g., Eat Right Foods, Ltd v. Whole Foods Mkt. Servs., Inc.*,
 No. C13-2174RSM, 2015 WL 11233198, at *2 (W.D. Wash. Feb. 18, 2015).

1 *Fetzer Co. v. Weeks*, 122 Wash. 2d 141, 149, 859 P.2d 1210, 1215 (1993). But a fee award is
 2 especially appropriate when plaintiffs invoke long-arm jurisdiction “as a means to harass foreign
 3 defendants.” *Cabell v. Zorro Prods., Inc.*, No. 13-CV-00449RSM, 2015 WL 11233121, at *2
 4 (W.D. Wash. Mar. 23, 2015); *Summers*, 2022 WL 1164579, at *6.

5 **B. Emcure qualifies for attorneys’ fees under Washington’s long-arm statute.**

6 Defendants that win motions to dismiss for want of personal jurisdiction “are understood
 7 to have prevailed for purposes of this statute.” *Cabell*, 2015 WL 11233121, at *1; *see also*
 8 *Fetzer*, 859 P.2d at 1212. Emcure is accordingly eligible for attorneys’ fees under § 4.28.185(5)
 9 to “compensate [it] for the added expense caused [it] by [HDT’s] assertions of long-arm
 10 jurisdiction.” *See Summers*, 2022 WL 1164579, at *6; *see Fetzer*, 859 P.2d at 1215.

11 First, there is no question that HDT’s assertion of long-arm jurisdiction caused Emcure
 12 added expense. Without HDT’s assertion of long-arm jurisdiction, there would have been no
 13 case against Emcure in the United States and no need to hire US-based or Washington-based
 14 counsel. Dkt. 195 at 10; *see Richmond v. Pryor*, No. C06-1483RSL, 2007 WL 777475, *2 (W.D.
 15 Wash, March 9, 2007) (finding fees for local counsel’s time reasonable because defendant would
 16 not “have had to engage Washington counsel if plaintiffs had sued her in her home state”).

17 Second, HDT’s motives for suing Emcure were unclear given that HDT had a remedy
 18 available to it—the very one it contracted for: an arbitration against Gennova. Instead, HDT
 19 chose to open a second front against Gennova’s parent company, Emcure, in a court halfway
 20 across the world for strategic reasons that appear unrelated to the merits of HDT’s trade-secret
 21 case. It is not lost on Emcure that HDT obtained a publicly filed complaint that it could then use
 22 in the press, thus bypassing the confidentiality typically inherent to private arbitrations. Having
 23 gambled by filing in US Court, HDT should have quickly recognized that Emcure was not
 24 subject to this Court’s jurisdiction after the initial motion to dismiss. But instead HDT continued
 25 litigating aggressively, ultimately requiring Emcure to process over 4.9 million documents to
 26 respond to HDT’s discovery demands. Declaration of Alex Jacobs (“Jacobs Decl.”) ¶¶ 13, 21.

Again, it should not be lost on the Court that HDT’s strategic choice to file against Emcure in the United States, and then to pursue hyper-aggressive jurisdictional discovery, effectively allowed HDT to bypass the more typical arbitral restraints on expansive document discovery to which it had contractually agreed. See Dkt. 132, Ex. 9, § 13.7 (LCIA Rules apply); *see generally* LCIA Rules Art. 14 (tribunal’s duty to adopt expeditious procedures); *id.* Art. 22 (arbitrator may order production of documents deemed relevant). Finally, the Court should consider that HDT repeatedly stretched and exaggerated the facts in this litigation. For example, HDT wrongly claimed that vaccine ingredients and vendors were trade secrets despite publicly disclosing that very information in its filed First Amended Complaint, Dkt. 195 at 15; overstated the relevance of this Court’s prior holding that Emcure had sufficient control over discoverable materials, Dkt. 195 at 127; and baselessly alleged that Emcure marketed the COVID vaccine in the United States, Dkt. 132 ¶ 351; Dkt. 195 at 20–21.

Relatedly, HDT’s approach to sealing drove up Emcure’s expenses. HDT’s motion did not “identify any particular paragraphs or lines” of the 1,386-page Berkowitz Declaration that “[HDT]” sought to keep under seal, Dkt. 196 at 5. Emcure had to “identify particular paragraphs or lines it” sought to keep under seal and “explain[] why each of these paragraphs … contain[ed] sensitive information.” *Id.*

All of these factors make an award of attorney fees and costs especially appropriate here. *See Cabell*, 2015 WL 11233121, at *2; *Summers*, 2022 WL 1164579, at *6.

C. Emcure’s requested fees are reasonable.

The applicant has the burden of proving the “reasonableness of the fees requested.” *Fetzer*, 859 P.2d at 1216. Washington uses the “lodestar” approach to fee calculation. *Id.* at 1215. “A lodestar award is arrived at by multiplying a reasonable hourly rate by the number of hours reasonably expended on the matter.” *Id.*; *see McGrath v. County of Nev.*, 67 F.3d 248, 252 (9th Cir. 1995). “In adjudging ‘reasonable hours’ under the long-arm statute, courts should attempt to determine the amount of time that it would take a competent practitioner to recognize

1 the jurisdictional issue, research the relevant law, discover the pertinent facts, and then prepare,
 2 file and prevail upon a” motion to dismiss. *Fetzer*, 859 P.2d at 1216. “The reasonable hourly rate
 3 corresponds to the prevailing market rate in the relevant community, considering the experience,
 4 skill, and reputation of the attorney in question.” *Eat Right Foods*, 2015 WL 11233198, at *3
 5 (citing *Chalmers v. City of L.A.*, 796 F.2d 1205, 1210 (9th Cir. 1986), amended on other
 6 grounds, 808 F.2d 1373 (1987)).

7 The court “may then adjust this lodestar calculation by other factors,” including “the
 8 novelty and difficulty of the questions involved,” “time limitations imposed by the client or
 9 circumstances,” and “the amount involved and the results obtained.” *Id.*

10 A party can recover for work performed by qualified non-lawyer personnel for legal
 11 services supervised by an attorney. *Philips Oral Healthcare, Inc. v. Fed. Ins. Co.*, 2005 WL
 12 3020014, at *6 (W.D. Wash. Nov. 10, 2005) (quoting *Absher Const. Co. v. Kent Sch. Dist. No.*
 13 415, 79 Wash. App. 841, 845 (1995)).

14 As discussed below and in declarations, Emcure seeks fees for its counsel’s reasonable
 15 work at reasonable rates.

16 **1. Perkins Coie LLP**

17 Emcure seeks to recover \$1,361,388.25 for Perkins Coie’s work from June 2023 through
 18 the filing of the reply to this motion. Sanders Decl. ¶ 2.

19 **a. Reasonable work**

20 Perkins Coie attorneys spent 1559.15 hours preparing Emcure’s jurisdictional defense. As
 21 described above, that preparation included:

- 22 • reviewing nearly 40,000 documents produced by Emcure;
 23 • analyzing 27,642 pages produced by HDT and third parties;
 24 • preparing seven Emcure and Genova witnesses for deposition and taking four
 25 depositions of HDT witnesses;

- 1 • drafting a motion to dismiss and reply in support, which addressed an 87-page
- 2 amended complaint with 205 pages of exhibits and the 1,386-page (including
- 3 exhibits) Declaration of Dana Berkowitz in support of HDT’s response;
- 4 • briefing multiple motions to seal, responses, and replies, in which counsel
- 5 carefully “identif[ied] particular paragraphs or lines it” sought to keep under seal
- 6 and “explained why each of these paragraphs … contain[ed] sensitive
- 7 information,” Dkt. 196 at 5; and
- 8 • responding to HDT’s motion to compel.

9 Sanders Decl. ¶¶ 17-22. Perkins Coie also researched and drafted this motion for attorneys’ fees
10 and will handle the reply. *Id.* ¶¶ 23-25. See *Sportsfragrance, Inc. v. The Perfumer’s Workshop*
11 *Int’l, Ltd.*, No C09-177Z, 2009 U.S. Dist. LEXIS 60597 (W.D. Wash. June 30, 2009) (awarding
12 attorneys’ fees for time spent preparing the fee request); *Hewitt*, 78 Wn. App. at 457 (same).

13 The 1559.15 hours represent the total time spent by two partners, a counsel, an associate,
14 two discovery counsel, a paralegal, and a paralegal assistant over a nearly seven-month period.
15 Staffing on the Perkins Coie team was reasonable under the circumstances. The partners often
16 divided and conquered separate tasks. And a paralegal and a paralegal assistant were necessary
17 to help with the extensive sealing, redactions, and deposition preparation. Attorneys—mostly
18 Ms. Beane and Mr. Fergusson—supervised that work, which required making judgment calls
19 about what information is confidential. See *Philips Oral Healthcare*, 2005 WL 3020014, at *6.
20 The two main discovery counsel, who were also necessary given the number of documents
21 residing in an electronic database, charge lower rates than other Perkins Coie attorneys. This case
22 was as leanly staffed as possible, and Emcure has not requested reimbursement for time spent by
23 other attorneys and support staff, including firm librarians. The Sanders Declaration details the
24 tasks performed, “the number of hours worked, and the category of attorney who performed the
25 work (i.e., senior partner, associate, etc.).” *Bowers v. Transamerica Title Ins. Co.*, 100 Wash. 2d
26 581, 597, 675 P.2d 193, 203 (1983).

b. Reasonable rates

Perkins Coie charged Emcure their standard hourly billing rates, *see* Sanders Decl. ¶¶ 10–16, which are presumed reasonable, *Bowers*, 100 Wash. 2d at 597, 675 P.2d at 203. Emcure seeks an award for time spent by six attorneys, a paralegal, and a paralegal assistant:

- James Sanders (\$1025/hr): a labor & employment partner;
 - Amanda Beane (\$1100/hr): a commercial litigation partner;
 - Sopen Shah (\$930/hr): a commercial litigation counsel;
 - Tyler Fergusson (\$610/hr): a commercial litigation associate;
 - Alexa Stemmler (\$450/hr): an E-Discovery Services & Strategy counsel;
 - Andrew Chen (\$350/hr): an E-Discovery Services & Strategy senior discovery attorney;
 - Arunas Bura (\$340/hr): a senior labor & employment paralegal; and
 - Stefan Klinkowski (\$250/hr): a labor & employment paralegal assistant.

These standard rates are consistent with those of attorneys and paralegals of comparable skill, experience, and reputation practicing in this geographic market. Declaration of Eugenia Frenzel re: Perkins Coie (“Frenzel PC Decl.”) ¶¶ 11-13; see *Eat Right Foods*, 2015 WL 11233198, at *3. A review of data showing the billing rates charged by comparable firms in the market shows that the rates charged by the six attorneys and two paralegals on this matter fall in or below the median range for professionals with comparable skill, experience, and reputation. Frenzel Decl. ¶¶ 11. Nearly five years ago, and before the substantial recent increases in the national rate of inflation, the Western District of Washington approved rates of \$895 an hour. *Wagafe v. Trump*, No. C17-0094RAJ, 2019 WL 954980, at *5-6 (W.D. Wash. Feb. 27, 2019), cited with approval in Dkt. 97 at 5.

The Ninth Circuit and this Court have upheld the reasonableness of the rates charged by Perkins Coie attorneys. *See, e.g.*, Memorandum Order at 5-6, *Moi v. Chihuly Studio*, No. 19-35852 (9th Cir. Mar. 1, 2021), Dkt. 71-1 (affirming fee award of \$1,646,659.68); *Philips Oral*

1 *Healthcare*, 2005 WL 3020014, at *8-*9; *Stalwart Capital, Inc. v. iCap Pac. Nw. Income &*

2 *Opportunity Fund, et al.*, No. C14-01128 TSZ, 2019 WL 852064 (9th Cir. 2019).

3 **2. Blank Rome LLP**

4 Emcure seeks to recover \$867,529 for Blank Rome's work, which occurred mostly
 5 between March 2022 to June 2023. Iannucci Decl. ¶¶ 2, 4.

6 **a. Reasonable work**

7 Blank Rome spent 1,922.4 hours defending Emcure. *Id.* Its attorneys:

- 8 • briefed Emcure's first motion to dismiss for lack of personal jurisdiction (or
 9 forum non conveniens or to stay the case pending arbitration), *id.* ¶ 16;
- 10 • responded to two sets of interrogatories, which totaled 12 pages, and five sets of
 11 requests for production of documents and electronic discovery, Sanders Decl. ¶ 5;
- 12 • processed over 23.3 million files and produced nearly 40,000 documents (410,239
 13 pages), Dkt. 178 ¶ 2; Iannucci Decl. ¶ 16;
- 14 • sent 14 requests for production to HDT and obtained 27,642 pages worth of
 15 documents from HDT and third parties, Sanders Decl. ¶¶ 5, 17;
- 16 • They also briefed two motions for protective order, Dkt. 63, Dkt. 67, which
 17 involved a hearing, Dkt. 85; a motion to compel discovery from HDT, Dkt. 59;
 18 and HDT's motion to compel deposition, Dkt. 105.

19 **b. Reasonable rates**

20 Emcure seeks an award for time spent by four attorneys, Iannucci Decl. ¶¶ 8-11:

- 21 • Alan Freeman (\$840/hr for 2022; \$895/hr for 2023): a business litigation partner;
- 22 • Mike Iannucci (\$720/hr for 2022; \$795/hr for 2023): a business litigation partner;
- 23 • Cody Wilcoxson (\$560/hr for 2022; \$640/hr for 2023): a business litigation
 24 associate; and
- 25 • M. David Tambussi (\$510/hr for 2022): a general litigation associate.

1 These standard rates are consistent reasonable and commensurate with the rates charged
 2 by law firms for attorneys of comparable skill, experience, and reputation practicing in this
 3 geographic market. Declaration of Eugenia Frenzel re: Blank Rome (“Frenzel BR Decl.”) ¶¶ 11-
 4 13; *see Eat Right Foods*, 2015 WL 11233198, at *3. And Blank Rome gave Emcure a discount
 5 from those rates. Iannucci Decl. ¶¶ 2, 15.

6 **3. Corr Cronin LLP**

7 Emcure seeks to recover \$91,700.68 for work performed by Corr Cronin from May 2022
 8 to October 2023. Declaration of Steven Fogg (“Fogg Decl.”) ¶ 3. Steven Fogg (\$700/hr) served
 9 as the lead local lawyer while Blank Rome managed the litigation from another state. *Id.* ¶ 5. Mr.
 10 Fogg is a Chambers-ranked jury trial lawyer who has tried more than eighty cases to verdict,
 11 including product liability lawsuits alleging catastrophic injuries to high profile intellectual
 12 property disputes. *Id.* For consistency, Mr. Fogg stayed on the case after Perkins Coie took over,
 13 but with a minimal role. *Id.* ¶¶ 3, 9. Mr. Fogg attended all hearings, participated in some
 14 discovery conferences, provided some strategic advice, and, before Perkins Coie appeared,
 15 advised Emcure on local practice. *Id.* ¶ 5, 10. He billed \$67,480 in total. *Id.* His partners Jack
 16 Lovejoy (\$525/hr) and Todd Williams (\$525/hr) assisted with briefing and argument preparation
 17 and billed about \$16,852 in total. *Id.* ¶ 6, 10. Jack Lovejoy is a trial lawyer with experience in
 18 state and federal courts and private arbitration. Todd Williams has significant civil trial
 19 experience in state and federal courts in Washington and around the country. Associate Laurel
 20 Brown (\$400/hr), an award-winning writer and former Washington Supreme Court law clerk,
 21 provided some research and writing support, and Corr Cronin invoiced \$6,520 for her time.

22 Mr. Fogg’s and Mr. Williams’ standard rates fall below the median range for attorneys
 23 with comparable skill, experience, and reputation. Declaration of Eugenia Frenzel re: Corr
 24 Cronin (“Frenzel CC Decl.”) ¶¶ 11-12; *see Eat Right Foods*, 2015 WL 11233198, at *3.

4. Berkeley Research Group, LLC

Emcure seeks to recover \$832,447.88 for the work of Berkeley Research Group, LLC (“BRG”), a global consulting firm that provided discovery support to Blank Rome and Perkins Coie. *See Jacobs Decl.* ¶ 31. The timekeepers that worked on Emcure’s matter ranged from \$45/hour for contract reviewers to \$630/hour for BRG’s managing director. *See id.* ¶ 25. These professionals collected over 20 million files from Emcure and Gennova, managed the review database, and reviewed thousands of documents for responsiveness and privilege designations. *Id.* ¶¶ 2, 8–24, 26–30 & Ex. 2.

5. Parinam Law

Emcure seeks to recover about \$93,693 for its Indian counsel's work related to this American case. Jain Decl. ¶ 2. Specifically, attorneys Hitesh Jain, Monisha Mane, and Pranav Nair (all \$150/hr) defended the depositions of the seven Emcure and Gennova witnesses, as required by Indian law. *Id.* ¶¶ 6–10. They also consulted with Emcure's American counsel to understand the facts of this case and to ensure consistency with the defense in the London arbitration with HDT. *Id.*

CONCLUSION

HDT’s decision to sue Emcure in the Western District of Washington—despite having a contracted-for remedy against Gennova—caused these expenses. Emcure’s requested fees of \$3,246,758.81 are reasonable given the voluminous discovery, the complex legal issues, the gravity and magnitude of HDT’s claims, and HDT’s aggressive litigation approach. *See Eat Right Foods*, 2015 WL 11233198, at *3. This Court should award Emcure’s requested fees for the significant effort it expended defending this matter in a forum with which it has no relationship.

1 Dated: December 18, 2023

By: /s/ Amanda J. Beane

James Sanders, WSBA No. 24565

Amanda J. Beane, WSBA No. 33070

Eric B. Wolff, WSBA No. 43047

PERKINS COIE LLP

1201 Third Avenue, Suite 4900

Seattle, Washington 98101-3099

Telephone: +1.206.359.8000

Faxsimile: +1.206.359.9000

JSanders@perkinscoie.com

ABeane@perkinscoie.com

EWolff@perkinscoie.com

2 I certify that this memorandum contains 4,187
3 words, in compliance with the Local Civil
Rules.

4 Steven W Fogg

5 **CORR CRONIN LLP**

6 1015 Second Ave

7 10th Floor

8 Seattle, WA 98104

9 206-625-8600

10 Email: sfogg@corrcronin.com

11 *Attorneys for Defendant*
12 *Emcure Pharmaceuticals Ltd.*

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was filed using the ECF filing system on December 18, 2023.

/s/ Amanda J. Beane
Amanda J. Beane